

DW 05-095

TOWN OF MEREDITH

Petition to Extend Sewer Service to Center Harbor

Order *Nisi* Granting Petition

O R D E R N O. 24,497

July 29, 2005

I. BACKGROUND

On May 18, 2005, the Town of Meredith (Meredith) filed a petition with the New Hampshire Public Utilities Commission (Commission) to extend its sewer service into the Town of Center Harbor to serve one customer whose property abuts the town line between Meredith and Center Harbor. Meredith's sewer system is a part of a regional sewer system known as the Winnepesaukee River Basin Program (WRBP). Wastewater collected from Meredith and nine other Lakes Region communities is transported via an interceptor sewer and a series of pumping stations to a treatment plant located in the City of Franklin.

The request involves a Center Harbor resident who has two homes on a lot that use the same septic system. The septic system is overused and the proposed solution is to have one home continue to use the septic system and the second home connect to the Meredith sewer system.

In support of its petition, Meredith has supplied letters from the Meredith Department of Water and Sewer which indicates the system has adequate capacity to serve the additional customer. Meredith provided a letter from the Meredith Selectmen which encourages Commission approval of the request. Meredith proposes to serve the Center Harbor resident under the same terms and conditions as extended to Meredith customers. This resident will also

pay all the costs of the extension of service to the property in accordance with the Meredith Sewer Ordinance.

On July 18, 2005, Commission Staff submitted a letter recommending the Commission approve the request. Staff indicated that it had submitted discovery requests to Meredith and attached the responses to its letter. In those responses Meredith represents that the WRBP has no objection to the request of Meredith to serve one customer in Center Harbor. In addition, the Town of Center Harbor had no objection as long as the Bay District Sewer System (BDSS) had none. According to Meredith's counsel, BDSS is a sewer district serving a small area of the Towns of Center Harbor and Moultonborough on Route 25, an area that does not include the property to be served in the instant petition. Thus, Staff reported that BDSS has no objection to the proposal. Staff also avers in its recommendation letter that since Meredith proposes to provide service to the Center Harbor customer under the same terms and conditions as provided to customers within Meredith, the provision of service outside municipal boundaries does not implicate Commission jurisdiction over Meredith's sewer service and thus, under RSA 362:4, III (a), would not be subject to Commission jurisdiction.

II. COMMISSION ANALYSIS

Pursuant to RSA 362:4, II and III, municipal corporations furnishing sewer service outside their municipal boundaries shall not be considered a public utility for purposes of accounting, reporting, or auditing functions with respect to said service if it serves customers outside its municipal boundaries at rates no higher than those charged inside its municipal boundaries and provides sewer service equal to the service provided within the municipality.

Pursuant to RSA 362:4, III (a), municipal corporations still must comply with franchise application requirements of RSA 374:22. RSA 374:22, in turn, requires Commission approval of franchise expansions. Pursuant to RSA 374:26, the Commission shall grant requests for franchise authority when it finds that the exercise of the right, privilege, or franchise is in the public good. In determining whether a franchise is in the public good, the Commission assesses the managerial, technical, financial and legal expertise of the petitioner. *See, Lower Bartlett Water Precinct*, 85 NH PUC 635, 641 (2000). In addition, the Commission scrutinizes franchise petitions to ensure they are consistent with the orderly development of the region. *Pennichuck Water Works, Inc.*, 72 NH PUC 589, 593 (1987). The Commission may grant permission to expand a franchise without a hearing, pursuant to RSA 374:26, “when all interested parties are in agreement.”

We have reviewed Meredith’s petition and the Staff’s recommendation and will grant Meredith the permission to provide service in the Town of Center Harbor as requested. Meredith has the requisite capability to provide service to the Center Harbor customer and has agreed to do so. And because Meredith will provide sewer service to the Center Harbor customer under the same terms and conditions as those imposed on Meredith customers, Meredith’s sewer service, in accordance with RSA 362:4, III (a), is not subject to regulation as a public utility.

Though it appears that all interested parties are in agreement, we will nonetheless afford an opportunity for comment on Meredith’s Petition. Accordingly, our approval is on a *nisi* basis, subject to the conditions below.

Based upon the foregoing, it is hereby

ORDERED *NISI*, that subject to the effective date below, the Town of Meredith's request to expand its franchise area in order to provide sewer service to one customer in the Town of Center Harbor is **APPROVED**; and it is

FURTHER ORDERED, that Meredith's provision of sewer service remains exempt from our jurisdiction as long as Meredith complies with RSA 362:4, III (a), which requires it charge customers outside its municipal boundaries rates no higher than rates charged customers inside the Town of Meredith and provide the same level of service provided customers within the municipality; and it is

FURTHER ORDERED, that Meredith shall cause a copy of this Order *Nisi* to be published once in a statewide newspaper of general circulation or of circulation in those portions of the state where operations are conducted, such publication to be no later than August 8, 2005 and to be documented by affidavit filed with this office on or before August 29, 2005; and it is

FURTHER ORDERED, that all persons interested in responding to this Order *Nisi* be notified that they may submit their comments or file a written request for a hearing which states the reason and basis for a hearing no later than August 15, 2005 for the Commission's consideration; and it is

FURTHER ORDERED, that any party interested in responding to such comments or request for hearing shall do so no later than August 22, 2005; and it is

FURTHER ORDERED, that this Order *Nisi* shall be effective August 29, 2005, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.

By order of the Public Utilities Commission of New Hampshire this twenty-ninth
day of July, 2005.

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Michael D. Harrington
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary